

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JONATHAN COOPER,

and

JEFFREY COOPER,

Plaintiffs,

SHAWN REDDING,

Defendant.

Civil Action No. 8:15cv441

ORDER ON FINAL PRETRIAL  
CONFERENCE

A final pretrial conference was held on the 6<sup>th</sup> day of January, 2017. Appearing  
for the parties as counsel were:

JOSEPH D. THORNTON, #AT0007980  
SMITH PETERSON LAW FIRM, LLP  
The Sawyer Building  
133 West Broadway  
P.O. Box 249  
Council Bluffs, IA 51502  
Telephone: (712) 328-1833  
Facsimile: (712) 328-8320  
E-mail: [jdthornton@smithpeterson.com](mailto:jdthornton@smithpeterson.com)

WILLIAM L. CARR  
C. ROBERT BUCKLEY  
White, Graham, Buckley & Carr, LLC  
19049 E. Valley View Pkwy, Suite C  
Independence, Missouri 64055  
816-33-9080  
816-373-9319  
[wcarr@wagblaw.com](mailto:wcarr@wagblaw.com)

(A) **Exhibits.** Attached

(B) **Uncontroverted Facts.** The parties have agreed that the following may be accepted as established facts for purposes of this case only:

1. Plaintiffs, Jonathan Cooper and Jeffrey Cooper are citizens of Missouri. Defendant, Shawn Redding, is a resident of Minnesota. Jurisdiction is based on 28 U.S.C. §1332 as Plaintiffs and Defendants are citizens of different states and the matter in controversy exceeds the value of \$75,000.
2. On September 10, 2012, Plaintiff Jonathan Cooper was operating a vehicle in a southerly direction on Highway 77 in Winslow, Nebraska.
3. On September 10, 2012, Defendant, Shawn Redding, was operating a truck and trailer in a southerly direction on Highway 77 in Winslow, Nebraska.
4. Plaintiff, Jeffrey Cooper, was a passenger in an automobile operated by Jonathan Cooper as described in paragraph 2 above.
5. That on September 10, 2012, the tractor and trailer Defendant Shawn Redding was operating collided with the rear of the vehicle operated by Plaintiff, Jonathan Cooper.
6. The police were called following the accident.
7. Both Plaintiffs were taken to Fremont Area Medical Center and released the same day.

(C) **Controverted and Unresolved Issues.** The issues remaining to be determined and unresolved matters for the court's attention are:

The fault of the driver in each vehicle.

The amount of the Plaintiffs' damages.

Nature and extent of Plaintiffs' injuries and whether those injuries are permanent.

Causation of Plaintiffs' alleged injuries.

(D) **Witnesses.** All witnesses, including rebuttal witnesses, expected to be called to testify by plaintiffs, except those who may be called for impeachment purposes as defined in NECivR 16.2 (c) only, are:

1. Jeffrey Cooper, 524 River Drive, Branson, Missouri.
2. Jonathan Cooper, 625 Truman Drive, Branson, Missouri
3. Shawn Redding
5. Truett Swaim, M.D., 9233 Ward Parkway, Suite 365, Kansas City, Missouri.
6. Colton Bartels, D.C. 12643 Metcalf, Overland Park, Kansas
7. Prem Parmar, M.D., 23401 Prairie Star Parkway, Lenexa, Kansas 66227
8. Holly Cooper, 8711 Tinker Hill Circle, Lake Annette, Missouri 64746
9. Charlotte Cooper, 524 River Drive, Branson, Missouri
10. Deputy B. Kottich, Dodge County Sheriff's Office, 428 N. Broad, Fremont, NE
11. Elizabeth Jean Cooper, 625 Truman Drive, Branson, Missouri
12. Grace Botterbrodt, 614 9<sup>th</sup> Street, Scribner, NE 68057
13. Ryan Botterbrodt (same as Grace Botterbrodt)

All witnesses expected to be called to testify by defendant, except those who may be called for impeachment purposes as defined in NECivR 16.2 (c) only, are:

1. Jeffrey Cooper, 524 River Drive, Branson, Missouri.
2. Jonathan Cooper, 625 Truman Drive, Branson, Missouri
3. Shawn Redding
4. Dr. Lee Millward, M.D. Fremont Medical Center Emergency Department, 450 E. 23<sup>rd</sup> Street, Fremont, Nebraska

(E) **Expert Witnesses Qualifications.** Experts to be called by plaintiff and their qualifications are:

Truett Swaim (address above) and orthopedic specialist and independent medical examiner who examined plaintiffs.

Treating doctors (non-retained experts): Colton Bartels, D.C., a chiropractor who treated both Plaintiffs and Prem Parmar, M.D., an orthopedic surgeon who operated on Jonathan Cooper.

Experts to be called by defendant and their qualifications are:

None

(F) **Voir Dire.** Counsel have reviewed Federal Rule of Civil Procedure 47(a) and NECivR 47.2(a) and suggest the following with regard to the conduct of juror examination: The attorneys shall conduct Voir Dire.

(G) **Number of Jurors.** Counsel have reviewed Federal Rule of Civil Procedure 48 and NECivR 48.1 and suggest that this matter be tried to a jury composed of 8 members.


(H) **Verdict.** The parties will not stipulate to a less-than unanimous verdict.

(I) Briefs, Instructions, and Proposed Findings. Counsel have reviewed NECivR39.2(a), 51.1(a), and 52.1, and suggest the following schedule for filing trial briefs, proposed jury instructions, and proposed findings of fact, as applicable: Trial briefs and proposed jury instructions should be due 5 working days before the start of trial or January 23, 2017.

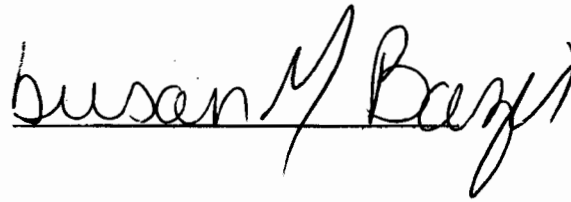
(J) Length of Trial. Counsel estimate the length of trial will consume not less than 2 days, not more than 4 days, and probably about 3 days.

(K) Trial Date. Trial is set for January 30, 2017.

  
JOSEPH D. THORNTON, #AT0007980  
SMITH PETERSON LAW FIRM, LLP  
The Sawyer Building  
133 West Broadway  
P.O. Box 249  
Council Bluffs, IA 51502  
Telephone: (712) 328-1833  
Facsimile: (712) 328-8320  
E-mail: [jdthornton@smithpeterson.com](mailto:jdthornton@smithpeterson.com)  
ATTORNEYS FOR DEFENDANT

  
C. ROBERT BUCKLEY  
WILLIAM L. CARR  
White, Graham, Buckley & Carr, LLC  
19049 E. Valley View Pkwy, Suite C  
Independence, Missouri 64055  
816-33-9080  
816-373-9319  
[bbuckley@wagblaw.com](mailto:bbuckley@wagblaw.com)  
ATTORNEY FOR PLAINTIFFS

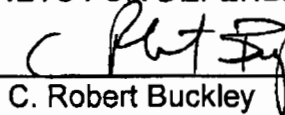
BY THE COURT:

Handwritten signature of Susan M. Bazzi in black ink, written over a horizontal line.

**CERTIFICATE OF SERVICE**

I hereby certify that on December 30, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Joseph D. Thornton  
SMITH PETERSON LAW FIRM  
35 Main Place  
P.O. Box 249  
Council Bluffs, IA 51502  
[jdt Thornton@smithpeterson.com](mailto:jdt Thornton@smithpeterson.com)  
ATTORNEYS FOR DEFENDANTS.

Handwritten signature of C. Robert Buckley in black ink, written over a horizontal line.  
C. Robert Buckley

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

Jonathan Cooper  
and  
Jeffrey Cooper  
Plaintiff(s),

v.

Shawn Redding  
Defendant(s).

SECOND AMENDED LIST OF EXHIBITS

Case Number: 8:15-cv-00441

Courtroom Deputy:

Court Reporter:

Trial Date(s): January 30, 2017

EXHIBIT NO.			DESCRIPTION	OFF	OBJ	RCVD	NOT RCVD	DATE
PLF	DF	3 PTY						
1			Accident Report		H			
2			Photo of accident scene					
3			Photo of accident scene					
4			Aerial Photo of accident scene					
5			Photo of sign on highway					
6			Photo of accident scene					
7			Photo of accident scene					
8			Map of Winslow					
9			Photo Plaintiff car					
10			Photo Plaintiff car					
11			Photo Plaintiff car					
12			Photo Plaintiff car					
13			Photo Plaintiff car					
14			Photo Plaintiff car					
15			Photo of ventriloquist dummy and dummy		R			
16			Photo of guitar		R			
17			Photo of guitar		R			



18			Fremont Medical records— Jonathan Cooper					
19			Winslow EMS Records— Jonathan Cooper					
20			Advanced Chiropractic Records—Jonathan Cooper					
21			Cass Regional Records— Jonathan Cooper					
22			Danny Carroll records— Jonathan Cooper					
23			Harrisonville Family Practice Records— Jonathan Cooper					
24			Prairie Star Records— Jonathan Cooper					
25			Dr. Parmar Records— Jonathan Cooper					
26			Winslow EMS bill— Jonathan Cooper					
27			Fremont Medical bill— Jonathan Cooper					
28			Cass Regional bill - Jonathan Cooper					
29			Bone & Joint Specialists bill—Jonathan Cooper					
30			Prairie Star bill—Jonathan Cooper		R, A, O			
31			Dr. Parmar bill-Jonathan Cooper					
32			Midwest Anesthesia Bill— Jonathan Cooper					
33			Fremont Medical records— Jeffrey Cooper					
34			St. Joseph records— Jeffrey Cooper					
35			Coliseum records-Jeffrey Cooper					



36			Pain Care records-Jeffrey Cooper					
37			Wellspring records—Jeffrey Cooper					
38			Fremont bill-Jeffrey Cooper					
39			St. Joseph bill—Jeffrey Cooper					
40			Coliseum bill – Jeffrey Cooper		R, A, O			
41			Pain Care bill—Jeffrey Cooper		R, A, O			
42			Truett Swaim Report – Jeffrey Cooper		R, H, A			
43			MRI—Jonathan Cooper					
44			MRI—Jeffrey Cooper					
45			CT Scan—Jeffrey Cooper					
46			Medequip bill (CPM)--Jonathan					
47			Deposition Transcript Shawn Redding and exhibits					
48			Photos of Defendant's tractor and trailer					
49			Exhibit 5 Shawn Redding Deposition					
50			Truett Swaim reports—Jonathan Cooper		R, H, A			
51			Truett Swaim curriculum vitae					
52			Any tangible item of evidence associated with this case					

53		Plaintiff reserves the right to use any exhibits listed on Plaintiff's list as well as any exhibits either not presently known to Plaintiffs or are produced or circulated after creation of this list.					
54		Any exhibits to be used for impeachment					
55		Any document produced by any party in discovery					
56		Any document identified in any deposition					
57		Advanced Chiropractic Records- Jeffrey Cooper					
58		Advanced Chiropractic bill- Jonathan Cooper					
59		Advanced Chiropractic bill- Jeffrey Cooper					
60		General Radiology bill- Jonathan Cooper					
61		General Radiology bill- Jeffrey Cooper					

**DEFENDANT'S EXHIBITS**

100		Exhibit 1 from deposition of Jonathan Cooper (Photo of Cooper vehicle)					
101		Exhibit 2 from deposition of Jonathan Cooper (Diagram from police report bates number 000004)					
102		Exhibit 3 from deposition of Shawn Redding (satellite image of US 77)					
103		Exhibit 4 from deposition of Shawn Redding (satellite image of US 77 and railroad tracks)					

104		Exhibit 5 from deposition of Shawn Redding (Satellite image of railroad tracks)					
105		Exhibit 6 from deposition of Shawn Redding (Satellite image of highway 77 and railroad tracks)					
106		Exhibit 7 from deposition of Shawn Redding (Satellite image of highway 77 and railroad tracks)					
107		Exhibits 8-19 Photos of Defendant Shawn Redding's tractor					
108		Facebook account of Jonathan Cooper bates labeled 001121-001170		R			
109		Facebook account of Jeffrey Cooper bates labeled 001039-001120		R			
110		Hotel Grand Victoria Application for Employment for Jeffrey Cooper, 000955-000958					
111		Hotel Grand Victoria Employment Application for Jonathan Cooper, bates labeled 000994-000997					
112		Deposition transcript of Jonathan Cooper					
113		Deposition transcript of Jeffrey Cooper					
114		Records from Fremont Area Medical Center X ray hip dated 09/10/12, Bates labeled 000577					
115		Fremont Area Medical Center Emergency Documentation dated 09/10/12, bates labeled 000597-000599					

116		Fremont Area Medical Center Xray spine lumbosacral dated 09/10/12, bates labeled 000579					
117		Fremont Area Medical Center X ray spine dated 09/10/12 Bates labeled 000578					
118		Records from St Joseph Medical Center for Jeffrey Cooper, bates labeled 000871-000874					
119		Pain Care Initial Evaluation for Jeffrey Cooper dated 08/19/14 –bates labeled 000797- 000799					
120		Coliseum Imaging MRI for Jeffrey Cooper dated 07/29/14, bates labeled 000705					
121		Pain Care Re-evaluation dated 12/16/14 and back index for Jeffrey Cooper, Bates labeled 000809-000811					
122		Records from Advanced Sports and Family Chiropractic for Jeffrey Cooper date of service 11/02/10, bates labeled 000281-000283					
123		Records from Advanced Sports and Family Chiropractic for Jeffrey Cooper Date of service 01/29/13, bates labeled 000158-000159					
124		Records from Advanced Sports and Family Chiropractic for Jeffrey Cooper date of service 06/22/09, bates labeled 000272-000273					

	125		Records from Advanced Sports and Family Chiropractic for Jeffrey Cooper dates of service from 08/12/09 to 04/26/10, bates labeled 000274-000279					
	126		Records from Fremont Area Medical center for Jonathan Cooper Emergency documentation dated 09/10/12, bates labeled 000666					
	127		Records from Fremont Area Medical center for Jonathan bates labeled 000683  and Jeffrey Cooper bates labeled 000704					
	128		Cass Regional Medical Center MR Upper joint for Jonathan Cooper dated 12/07/12 – bates labeled 000576					
	129		Bone and Joint Specialists records for Jonathan Cooper, bates labeled 000709-000711					
	130		Advanced Sports and Family Chiropractic records for Jonathan Cooper date of service 01/04/13, bates labeled 000431-000436					

131		Advanced Sports and Family Chiropractic records for Jonathan Cooper dates of service in 2009, bates labeled 000562-000565					
132		Dr. Parmar progress note dated 02/25/14, bates labeled 000728					
133		Dr. Parmar release from care dated 05/12/14 , bates labeled 000729					
134		09/13/12 MRI of Thoracic Spine for Jonathan Cooper bates labeled 000761					
135		Bone and Joint Specialists records dated 12/05/12 to 01/13/13 – bates labeled 000763-000767					
135		Shawnee Mission medical center x-ray of shoulder dated 12/17/13 –bates labeled 000713					
137		Kansas City Sports and Family Chiropractic chart bates numbers -000716 to 000760					
138		Kansas City Sports and Family Chiropractic Progress note for Jonathan Cooper dated 05/12/14 bates labeled 000729					
139		Any document produced by any party (or by subpoena to a non-party) in discovery					
140		Any document identified in any deposition					
141		Any photographs or videos produced in discovery					
142		Any tangible item of evidence associated with this case					

	143		Defendant reserves the right to use any exhibits listed on Plaintiff's Exhibit List, as well as, any exhibits either not presently known to Defendant or that are produced or created after circulation of this list. Plaintiff also reserves the right to present any exhibits for the purpose of impeachment.					
--	-----	--	---	--	--	--	--	--

**OBJECTIONS**

R: Relevancy  
H: Hearsay  
A: Authenticity  
O: Other (specify)

**CERTIFICATE OF SERVICE**

I hereby certify that on January 6, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

TERRENCE J. SALERNO  
809 N. 96<sup>th</sup> Street, Suite 100  
Omaha, NE 68114  
402-502-9002  
402-991-0037 facsimile  
[terry@tsalerno-law.com](mailto:terry@tsalerno-law.com)

C. ROBERT BUCKLEY  
WILLIAM CARR  
White, Graham, Buckley & Carr, LLC  
19049 E. Valley View Pkwy, Suite C  
Independence, Missouri 64055  
816-33-9080  
816-373-9319  
[bbuckley@wagblaw.com](mailto:bbuckley@wagblaw.com)

s/ Rebecca Lambertus